



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,845	02/26/2002	Daniel Armstrong	ARM-1A	8192

20311 7590 11/17/2006

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

EXAMINER

NOGUEROLA, ALEXANDER STEPHAN

ART UNIT	PAPER NUMBER
----------	--------------

1753

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/083,845	Applicant(s) ARMSTRONG, DANIEL	
	Examiner ALEX NOGUEROLA	Art Unit 1753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 27-29.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-6,8-13,15,17,22-26 and 30.
Claim(s) withdrawn from consideration: 18-21.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


Alex Noguerola
Primary Examiner
Art Unit: 1753

Continuation of 5. Applicant's reply has overcome the following rejections: The rejection of claims 1, 3, 4, 5, and 22 under 35 U.S.C. 112, first paragraph (item 4 of the Final Office action of August 28, 2006). The rejection of claim 30 under 35 U.S.C. 112, first paragraph (item 6 of the Final Office action of August 28, 2006). The rejections of claims 1, 3, 4, and 22 under 35 U.S.C. 103(a) (item 10 of the Final Office action of August 28, 2006). The rejection of claim 5 under 35 U.S.C. 103(a) (item 11 of the Final Office action of August 28, 2006). The rejection of claims 6, 8-13, and 24 under 35 U.S.C. 103(a) (item 12 of the Final Office action of August 28, 2006). The rejection of claims 15-17 and 25 under 35 U.S.C. 103(a) (item 13 of the Final Office action of August 28, 2006).

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has not provided support for "neutral" polymer. Applicant has not provided the Pefferkorn and Horkay articles cited on page 16 of his Amendment of October 30, 2006. Thus, the rejection of claims 1,3,4,5,6,8-13,15,17,22,23,24, and 25 under 35 U.S.C. 112, first paragraph (item 5 of the Final Office action of August 28, 2006) is maintained. While Applicant has explained how his capillary isoelectric focusing is substantially different from Fuhr's he has not amended the claims to reflect these differences. Thus, the rejection of claim 26 under 35 U.S.C. 103(a) (item 14 of the Final Office action of August 28, 2006) is maintained and so is the rejection of claim 30 under 35 U.S.C. 103(a) (item 15 of the Final Office action of August 28, 2006). It should be noted that Applicant has also not submitted the declaration discussed on pages 21-22 of his Amendment of October 30, 2006. Applicant has also not cancelled withdrawn claims 18-21.